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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,663	09/18/2003	Peter Worthington Hamilton	9075ML	8571

27752 7590 02/26/2008
THE PROCTER & GAMBLE COMPANY
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CINCINNATI, OH 45224

EXAMINER

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ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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02/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER W. HAMILTON,
KENNETH S. MCGUIRE, ANDREW J. WNUK,
DEAN A. ZIMMERMAN, CYNTHIA S. DINIUS,
PAUL D. TROKHAN, KEVIN B. MCNEIL,
STEVEN L. BARNHOLTZ and CAROL K. BERNING

Appeal 2008-1609
Application 10/665,663
Technology Center 1700

Decided: February 26, 2008

Before BRADLEY R. GARRIS, CHARLES F. WARREN, and
THOMAS A. WALTZ, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-5 and 7-19. We have jurisdiction under 35 U.S.C. § 6.

We AFFIRM.

Appellants claim a multifunction food wrap 60 comprising a material web 62 having a plurality of protrusions 64, an adhesive in the spaces between the protrusions, and a secondary functional element disposed integral with the protrusions (claim 15; Fig. 6).

Representative independent claim 15 reads as follows:

15. A multifunctional food wrap comprising:

(a) a material web comprising at least one layer, said material web having a first active side and a second side, said material web comprising a plurality of protrusions integral with said first active side and said second side, said protrusions having spaces therebetween;

(b) an adhesive disposed upon said first active side in said spaces between said protrusions; and

(c) at least one secondary functional element disposed upon, and integral with, said protrusions.

The reference set forth below is relied upon by the Examiner as evidence of obviousness:

Hamilton

5,968,633

Oct. 19, 1999

All of the appealed claims are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamilton.

In contesting this rejection, Appellants do not identify any specific claim to which their arguments are directed (App. Br. 6; Reply Br. 3). Accordingly, we select independent claim 15 (i.e., because it is one of the broadest claims on appeal) as a representative claim upon which to focus in accessing the merits of the rejection before us.

For the reasons set forth in the Answer and below, we will sustain this rejection.

Appellants argue that Hamilton "does not teach an adhesive disposed between protrusions together with a secondary functional element disposed integral with the protrusions" (App. Br. 6; Reply Br. 3). We do not agree.

Hamilton expressly teaches a layer of substance 16, which may be adhesive, disposed between protrusions 14 (Figs. 1-4; col. 5, ll. 5-22; col. 8, ll. 1-13). Furthermore, patentee expressly teaches that the deformable material 12 (from which protrusions 14 are made) comprises sheets, wovens, laminates, and other materials having properties which include being porous, gas or liquid permeable, non-permeable, hydrophilic, hydrophobic, etc. (*id.*; col. 6, ll. 44-54). These aforementioned properties of deformable material 12 and the protrusions 14 made therefrom correspond to the properties possessed by Appellants' disclosed material web and protrusions made therefrom (Spec. para. bridging 3-4). Moreover, these properties are disclosed as providing the here-claimed secondary functional element such as film breathability (Spec. 9) and an air-seal to minimize moisture loss and freezer burn (Spec. 12). Because the deformable material of Hamilton's protrusions includes properties which correspond to the secondary functional element required by claim 15, such a functional element would be possessed by and integral with the protrusions of Hamilton.

Appellants also argue that "[t]he reference does not teach the disposition of the adhesive upon a surface of a web material as a first secondary functional element together with a second secondary functional

element disposed within the web material" (App., Br. 6; Reply Br. 3). This argument is unpersuasive.

For the reasons discussed previously, Hamilton's deformable material, which corresponds to Appellants' web material, includes properties that correspond to Appellants' secondary functional element. Moreover, Hamilton teaches that multiple substances such as adhesives and preservatives may be disposed on the deformable material (i.e., web material) (col. 8, ll. 1-23; col. 14, ll. 17-39). It follows that Hamilton envisions the combination of substances such as the here claimed adhesive and a secondary functional element in the form of a preservative (i.e., see Spec. 5 wherein preservatives are listed as providing a secondary function).

Finally, Appellants argue that the "portion of the reference cited by the Examiner describes portions of these [claimed] combinations, but does not teach or suggest all of the elements of any of the claimed combinations in a single embodiment" (App. Br. 6). However, each of the above discussed features of Hamilton are described as desirable. Therefore, one with ordinary skill in the art would have been motivated by such description to combine these desirable features in order to obtain their cumulative benefits. Significantly, Appellants have given no specific reasons in support of their contrary view.

For these reasons and the reasons expressed in the Answer, it is our determination that the reference evidence adduced by the Examiner establishes a prima facie case of obviousness with respect to representative claim 15 which Appellants have failed to successfully rebut with argument

or evidence of nonobviousness. Accordingly, we hereby sustain the § 103 rejection of all appealed claims as being unpatentable over Hamilton.

The decision of the Examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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